

REMARKS

The Office Action dated 5 June 2008 has been fully considered by Applicant.

Enclosed is a Petition For Three-Month Extension of Time and a check in the amount of \$1110.

Claims 1 and 16-19 have been currently amended. Claims 4-7 and 9-10, and 12-15 have been previously presented. Claims 2-3, 8, 11 and have been canceled.

Claims 1, 4-7, 9, 10, 12-14, 19 rejected under 35 USC 103(a) as being unpatentable over United States Patent No. 6,243,707 to Humpleman et al in view of United States Patent No. 6,167,564 to Fontana et al and United States Patent No. 6,505,348 to Knowles et al are traversed herein.

Independent claim 1 has been currently amended to include the step of configuring a reference information object model such that XML documents and/or other content-related information from diverse information sources can be generated therefrom in a consistent manner so as to be suitable for processing by a wide variety of different electronic program guide applications for use with the content-related information in accordance with a unified modelling language format. Support for the amendment may be found at paragraphs 38, 39, and 40 of the published specification and no new matter has been added.

Applicant's invention is directed toward an electronic program guide, and more particularly toward the generation of a model which allows the electronic program guide content information to be accessed and displayed via a number of different types of electronic devices, such as a set top box, a mobile (cell) phone, a game console or the like. Typically, each of these devices has its own operating parameters which affect the manner in the electronic program guide content data can be obtained and/or displayed. As a result of this, the electronic program guide may have to be

configured in accordance with a particular model (RIM) and the aim is to provide a model which can deal with all differing requirements.

In the '707 patent, the home network uses the electronic program guide information to build a home network HTML program guide. The HTML program guide is developed using the HTML standards and can be displayed on a browser based home device. (See Col 22, lines 57-60). Thus, the '707 patent is limited to use of devices having one or more HTML pages that command or control the home device. (See Col 4, lines 25-28).

Clearly, the '707 patent does not include configuring a reference information object model such that XML documents and/or other content-related information from diverse information sources can be generated therefrom in a consistent manner so as to be suitable for processing by a wide variety of different electronic program guide applications.

Claim 1 has been further amended to clarify that at least some of the content related information which is accessed by the first and second types of electronic program guide is present in the initial version of the model and the at least one subsequent version of the model and wherein the initial version of the model may be changed to the subsequent version of the model to allow the same to be accessed by the second type of electronic program guide without the content related information itself changing between the versions of the model.

In the '707 patent the electronic program guides are continually updated to reflect a current window of available programs. (See Col 22, line 55-56). Thus, when the content related information in the '707 patent is updated, the content is changed.

In Applicant's invention, it is the model that may change, not the contents. If the content related information was to change in Applicant's invention, a new version of the model would not be generated.

Applicant's model is initially generated for a first data specification and therefore is provided with an initial version. However, it can be seen that this model may need to be subsequently revised in an iterative manner as new data specification are developed. New data specification may need to be developed because either a new device may be connected to access the electronic program guide content information or because the existing device has changed. As a result, subsequent models can be generated to replace the initial version. However, this revision does not necessarily mean that the content related information changes between the versions.

The content related information relates to the programs that are being broadcast in a given time and so these are unaffected by the change in the model used to allow the content related information to be accessed.

As an example, the content related information would typically relate to programs to be shown in the next 72 hours. If, at a particular instant of time, the initial version of the model was changed and replaced by a subsequent version of the model, then at that instant of time the content related information would remain the same for that 72 hour period, although it may be configured from communication and/or display in a different manner as a result of the new version of the model.

It is believed that Applicant's currently amended independent claim 1, along with dependent claims 4-7, 9-10, and 12-15, is not taught or suggested in cited references either taken alone or in combination. Therefore, Applicant's respectfully request reconsideration of the rejection.

Furthermore, the combination of Humpleman et al in view of Fontana et al and Knowles et al is untenable. According to the USPTO's own Examination Guidelines for Determining Obviousness Under 35 U.S.C. § 103 in view of the Supreme Court decision in KSR International Co. v. Teleflex Inc., 550 U.S. 82 USPQ2d 1385 (2007), found at 72 Fed. Reg. 57,526, 57,528-57, 529, the key to supporting any rejection under 35 U.S.C. §103 is the clear articulation of the reason(s) why the claimed invention would have been obvious. The Supreme Court in KSR noted that the analysis supporting a rejection under 35 U.S.C. §103 should be made explicit. The Court stated that “[R]ejections on obviousness cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.” (Emphasis added).

On page 3 of the Office Action, the Examiner states that “... it would have been obvious to one of ordinary skill in the art to modify the system by Humpleman to configure the reference information object model in accordance with a unified modeling language format, as taught by Fontana in order to be able to easily exchange information between devices thereby ensuring greater compatibility and offering the capability of using object oriented programming.”

This is a mere conclusory statement, taken almost directly from the prohibited rationales listed in the Examination Guidelines. There is no articulated reasoning with rational underpinnings supporting the legal conclusion of obviousness. In particular, the Examiner failed to resolve the Graham factual inquires, also listed in the Examination Guidelines.

In relying on this rationale, the Examination Guidelines quotes KSR: “[I]t can be important to identify a reason that would have prompted a person of ordinary skill in the relevant field to combine the elements in the way the claimed new invention does.” *Id.* The Examination Guidelines

go on to state, “If any of these findings [from the Graham factual inquiries] cannot be made, then this rationale cannot be used to support a conclusion that the claim would have been obvious to one of ordinary skill in the art.” *Id.* A further argument against the Examiner’s factual findings is not possible, as the Examiner failed to include such factual findings, based on the Graham factual inquiries, in the Office Action.

In summary, the Examiner has failed to state a *prima facie* case for the combination of the two disparate patent references.

Independent claim 19 has been currently amended to include the additional claim limitation step of determining a reference information object model such that XML documents and/or other content-related information from diverse information sources can be generated therefrom in a consistent manner so as to be suitable for processing by a wide variety of different electronic program guide applications on a unified modelling language format.

In the ‘707 patent, the home network uses the electronic program guide information to build a home network HTML program guide. The HTML program guide is developed using the HTML standards and can be displayed on a browser based home device. (See Col 22, lines 57-60). Thus, the ‘707 patent is limited to use of devices having one or more HTML pages that command or control the home device. (See Col 4, lines 25-28).

Clearly, the ‘707 patent does not include determining a reference information object model such that XML documents and/or other content-related information from diverse information sources can be generated therefrom in a consistent manner so as to be suitable for processing by a wide variety of different electronic program guide applications.

Claim 19 has further been amended to include that the subsequent version of the model may be generated without changing the content-related information between the initial and the second versions of the model.

In the '707 patent the electronic program guides are continually updated to reflect a current window of available programs. (See Col 22, line 55-56). Thus, when the content related information in the '707 patent is updated, the content is changed.

However, the contents do not change in Applicant's invention upon updating which may be due to a new or different device or to changes in an existing device.

Clearly, currently amended claim 19 is not taught or suggested in the cited references, taken alone or in combination, and therefore Applicant sincerely believes that independent claim 19 is patentable.

Claims 3 and 5 rejected under United States Patent No. 6,243,707 to Humpleman et al in view of United States Patent No. 6,167,564 to Fontana et al and United States Patent No. 6,505,348 to Knowles et al and further in view of United States Publication No. 2002/0073081A1 to Kido are traversed herein.

Claim 3 has been currently canceled and claim 5 depends upon currently amended independent claim 1 and it is believed to be patentable over the cited references for the reasons stated above.

Claims 16-18 rejected under United States Patent No. 6,243,707 to Humpleman et al in view of United States Patent No. 6,167,564 to Fontana et al and United States Publication No. 2002/0073081A1 to Kido are traversed herein.

Independent claim 16 has been currently amended to include the additional claim limitation step of configuring a reference information object model such that XML documents and/or other content-related information from diverse information sources can be generated therefrom in a consistent manner so as to be suitable for processing by a wide variety of different program guide applications in accordance with a unified modelling language format.

Claim 16 has been further amended to include that the subsequent version of the model may be generated without changing the content related information between said initial and second versions of the model.

In the ‘707 patent, the home network uses the electronic program guide information to build a home network HTML program guide. The HTML program guide is developed using the HTML standards and can be displayed on a browser based home device. (See Col 22, lines 57-60). Thus, the ‘707 patent is limited to use of devices having one or more HTML page that commands or controls the home device. (See Col 4, lines 25-28).

Clearly, the ‘707 patent does not include determining a reference information object model such that XML documents and/or other content-related information from diverse information sources can be generated therefrom in a consistent manner so as to be suitable for processing by a wide variety of different electronic program guide applications.

Claims 17 and 18 have been currently amended to provide for a processor operative to implement at least a portion of the electronic program guide of the first type for processing the content-related information such that XML documents and/or other content-related information from diverse information sources can be generated therefrom in a consistent manner so as to be suitable for processing by a wide variety of different electronic program guide applications.

In addition, claims 17 and 18 have been further amended to include that the subsequent version of the model may be generated without changing the content related information between said initial and second versions of the model.

Applicant believes that currently amended independent claim 17 and 18 are patentable over the cited references for the same reasons as stated herein with reference to claim 1.

Applicant is grateful for the thorough examination of the application by Examiner Shepard and believes the application is now in condition for allowance and such action is earnestly solicited.

If any further issues remain, a telephone conference with the Examiner is requested. If any further fees are associated with this action, please charge Deposit Account No. 08-1500.

Respectfully Submitted

HEAD, JOHNSON & KACHIGIAN

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BY: 
Mark G. Kachigian, Reg. No. 32,840
228 West 17th Place
Tulsa, Oklahoma 74119
(918) 584-4187
Attorneys for Applicant